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March 1, 2004

Ex Parte

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re Verizon Telephone Companies Petition For Reconsideration, "In the Matter of Stale or Moot Docketed Proceedings", CC Docket Nos. 93-193, 94-65, and 94-157

Dear Ms. Dortch:

On February 5, 2004, on behalf of Verizon, Ed Shakin, Joe Dibella, Fred Moacdieh and the undersigned met with Tamara Preiss, Deena Shetler, Jay Atkinson, Irshad Abdal-Hagg, and Aaron Goldschmidt of the Wireline Competition Bureau to discuss the above captioned proceeding. During the meeting, Verizon presented its position why, even if it were determined that the tariffs at issue in this proceeding were unlawful, the FCC should not order refunds. The attached white paper elaborates on this position.

Please do not hesitate to contact me with any questions.

Sincerely,

/s/Joseph Mulieri

Attachments

cc: T. Preiss
D. Shetler
J. Atkinson
I. Abdal-Hagg
A. Goldschmidt

The Commission Should Decline To Order Refunds in its Pending OPEB and “Add-Back” Tariff Investigations Even If It Determines That the Tariffs Were Unlawful

The Commission currently has pending before it three investigations under 47 U.S.C. § 204 — each of which is roughly 10 years old — related to access tariffs that the Verizon telephone companies filed in 1993, 1994, and 1996. Verizon has already explained why those tariffs complied with all applicable Commission rules and were just and reasonable. The purpose of this paper is to explain why, even aside from the fact that Verizon believes its tariffs are lawful on the merits, the Commission should not order refunds after all these years.

First, the Commission is permitted under federal law to order refunds only when a carrier’s rates are above its price caps, once adjusted to reflect any Commission decision that a tariff subject to investigation was unjust or unreasonable. But there is substantial “headroom” available in the tariff filings at issue — that is, Verizon’s rates were lower than the maximum allowed under the price cap regime. Under settled precedent, it is unlawful for the Commission to require carriers to make refunds to the extent that their rates remain below the price caps. Therefore, as demonstrated below, it would be unlawful for the Commission to order refunds for a significant portion — tens of millions of dollars — of the amounts at issue.

Second, with respect to one of the three investigations — pertaining to Verizon’s application of “add-back” in its 1993 and 1994 tariff filings — any order requiring refunds would be unlawfully retroactive because it would deny carriers the benefit of their choice between the “X-factor” options during these tariff years. Moreover, because carriers, in 1993 and 1994, had no way of determining whether the Commission’s rules did, or did not, require application of add-back, the Commission is prohibited under general principles of administrative law from penalizing a carrier that selected an option different from the one the Commission later chose.

Finally, beyond these two legal prohibitions on requiring refunds, it would not be equitable to require refunds. As the Commission and the courts have long recognized, the decision whether to order refunds is within the Commission's discretion and requires a balancing of the equities to determine whether such an order is in the public interest. Here, the equities weigh strongly against ordering refunds. No matter how the Commission were to elect to implement such refunds, absent a requirement that the carriers who receive the refunds in turn refund those amounts dollar-for-dollar to their own customers, it would provide unjustified windfalls to the carriers receiving the refunds and no benefits to consumers, contrary to the public interest. In addition, the lengthy delay in resolving these proceedings has prejudiced Verizon's ability to defend its tariff filings.

I. BACKGROUND

A. SFAS 106

The first of the pending investigations involves Bell Atlantic's implementation of a change in the accounting principles that apply to certain costs related to "other post-employment employee benefits" or "OPEB."¹ In December 1990, the Financial Accounting Standards Board ("FASB") adopted SFAS 106, which changed the approved method of accounting for the costs of OPEBs from a "pay-as-you-go" basis — where carriers recognized expenses as benefits were paid to retirees — to an accrual method — where carriers recognize expenses when an employee earns the benefit, not when it is paid out. This change required carriers to recognize a "transitional benefit obligation" or "TBO," representing the OPEB costs for benefits that

¹ See *Southwestern Bell Tel. Co. v. FCC*, 28 F.3d 165, 168 (D.C. Cir. 1994) ("The 'other,' which explains the 'O' in the OPEB acronym, is intended to exclude pension benefits; what is left generally consists of retirees' life insurance and medical and dental care benefits.").

employees had earned, but that the carrier had not yet paid, as of the date the carrier implemented SFAS 106.

The Commission accepted SFAS 106 as a regulatory requirement in an order issued on December 26, 1991.² On December 31, 1991, Bell Atlantic informed the Commission of its intent to implement SFAS 106, effective January 1, 1991; the TBO expense ultimately was treated as an exogenous cost in Bell Atlantic's 1993 and 1994 access tariff filings.³ In 1994, the D.C. Circuit clarified the law on exogenous cost treatment, holding that, once the Commission requires implementation of an accounting change (such as SFAS 106), the requirement that such a cost is beyond the control of the carrier is satisfied.⁴

There was no action in the investigation into these tariffs after 1995 and, in 2001, the Commission terminated its investigation.⁵ One year later, the Bureau purported to reinstate that investigation and called for parties to supplement the record.⁶ As Verizon has explained elsewhere, Bell Atlantic's implementation of SFAS 106 on December 31, 1991 — after FASB

² See Order, *Southwestern Bell, GTE Service Corp., Notification of Intent To Adopt Statement of Financial Accounting Standards No. 106, Employers' Accounting for Postretirement Benefits Other Than Pensions*, 6 FCC Rcd 7560, 7560, ¶ 3 (1991) (“conclud[ing] that . . . adoption [of SFAS 106] for accounting purposes will not conflict with the Commission's regulatory objectives” and “authorizing carriers to implement SFAS-106 on or before January 1, 1993”) (emphasis added).

³ Although Verizon initially included the TBO expense as an exogenous cost adjustment in its 1992 filing, the Commission rejected that filing for reasons the D.C. Circuit later found unlawful. See *Southwestern Bell*, 28 F.3d at 173.

⁴ See *id.* at 170.

⁵ See Order, *Termination of Stale or Moot Docketed Proceedings*, 17 FCC Rcd 1199 (2002).

⁶ See Order, Notice and Erratum, *Stale or Moot Docketed Proceedings: 1993 Annual Access Tariff Filings-Phase I; 1994 Annual Access Tariff Filings, AT&T Communications Tariff F.C.C. Nos. 1 and 2, Transmittal Nos. 5460, 5461, 5462, and 5464-Phase II; Bell Atlantic Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 690; NYNEX Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 328*, 18 FCC Rcd 2550 (2003), *recon. denied*, FCC No. 04-13 (rel. Feb. 6, 2004).

adopted the accounting change, and the Commission approved it and encouraged early adoption — was consistent with the Commission’s rules.⁷ Consequently, Bell Atlantic’s TBO costs satisfy the standards for exogenous treatment.

B. *RAO 20 Rescission Order*

After the Commission approved the use of SFAS 106, the Common Carrier Bureau issued *RAO 20*,⁸ in which it concluded that local exchange carriers must deduct accrued OPEB liabilities from their interstate rate base. By reducing the rate base, the effect of *RAO 20* was to increase the calculated return on investment and thereby, for many price cap carriers, to increase their sharing obligations.

In 1996, the Commission issued the *RAO 20 Rescission Order*, vacating the Bureau’s interpretation of the Commission’s accounting rules.⁹ As the Commission found, its rules in place at the time “define[d] explicitly those items to be included in, or excluded from, the interstate rate base.”¹⁰ Because those rules did “not list OPEB costs as items to be excluded from

⁷ Direct Case of Verizon, *Stale or Moot Docketed Proceedings*, CC Docket Nos. 93-193 *et al.* (FCC filed Apr. 11, 2003); Rebuttal of Verizon to AT&T Opposition to Direct Case, *Stale or Moot Docketed Proceedings*, CC Docket Nos. 93-193 *et al.* (FCC filed May 27, 2003).

⁸ 7 FCC Rcd 2872 (1992).

⁹ See Memorandum Opinion and Order and Notice of Proposed Rulemaking, *Responsible Accounting Officer Letter 20, Uniform Accounting for Postretirement Benefits Other Than Pension in Part 32; Amendments to Part 65, Interstate Rate of Return Prescription Procedures and Methodologies, Subpart G, Rate Base*, 11 FCC Rcd 2957 (1996) (“*RAO 20 Rescission Order*”). In a separate proceeding, the Commission amended its accounting rules in 1997 to state expressly that, on a going forward basis, accrued OPEB liabilities, along with other long-term liabilities, are to be deducted from the rate base. See Report and Order, *Responsible Accounting Officer Letter 20, Uniform Accounting for Postretirement Benefits Other Than Pension in Part 32; Amendments to Part 65, Interstate Rate of Return Prescription Procedures and Methodologies, Subpart G, Rate Base*, 12 FCC Rcd 2321, 2327, ¶ 19, 2331, ¶ 34 (1997). The Commission also rejected claims that it should reconsider the *RAO 20 Rescission Order*, finding that the Bureau’s interpretation constituted an amendment to the Commission’s then-existing rules, which the Bureau did not have authority to do. *Id.* ¶ 28.

¹⁰ *RAO 20 Rescission Order*, 11 FCC Rcd at 2961, ¶ 25.

the rate base,” the Commission held that the Bureau “exceeded [its] delegated authority to the extent that it directed exclusions from and additions to the rate base for which the Part 65 rules [did] not specifically provide.”¹¹

In response to that order, Verizon’s 1996 access tariff filings reflected the lower sharing obligations that Verizon would have incurred from 1993 through 1995 but for the now-vacated *RAO 20*.¹² The Bureau suspended and investigated these tariff filings.¹³ The Bureau never designated issues or established a pleading cycle, and the investigation remained dormant until 2001, when the Commission terminated the investigation.¹⁴ As with the terminated investigation into the implementation of SFAS 106, the Bureau purported to reinstate this investigation more than one year later and called for parties to supplement the record.¹⁵ As Verizon has explained elsewhere, the Commission has already determined that its rules in effect prior to 1997 did not — and cannot be interpreted to — require carriers to deduct OPEB liabilities from the rate base.¹⁶ Furthermore, Verizon has fully supported and documented the basis for its recalculation of its 1993 through 1995 sharing obligations and the concomitant increase to its price cap indexes in its 1996 tariff filings.

¹¹ *Id.* at 2960, ¶ 21, 2961, ¶ 25; *see also* Verizon Ex Parte Letter, CC Docket Nos. 93-193 *et al.* (FCC filed Feb. 25, 2004).

¹² However, the former NYNEX companies did not reverse the exclusion of OPEB liabilities from the tariff filings for 1993 through 1995.

¹³ *See* Memorandum Opinion and Order, *1996 Annual Access Tariff Filings; National Exchange Carrier Association, Universal Service Fund and Lifeline Assistance Rates; NYNEX Telephone Company Petition to Advance the Effective Date of the 5.3 X-Factor to January 1, 1995*, 11 FCC Rcd 7564 (1996).

¹⁴ *See* 17 FCC Rcd 1199.

¹⁵ *See* 18 FCC Rcd 2550.

¹⁶ Comments of Verizon, *Stale or Moot Docketed Proceedings*, CC Docket Nos. 93-193 *et al.* (FCC filed Apr. 8, 2003); Reply Comments of Verizon, *Stale or Moot Docketed Proceedings*, CC Docket Nos. 93-193 *et al.* (FCC filed Apr. 22, 2003).

C. “Add-Back”

When the Commission adopted price caps for local exchange carriers, it did not make a clean break from the prior system of rate-of-return regulation. Carriers that earned less than 10.25 percent in one year (“Year 1”) were permitted to make a “lower formula adjustment” in Year 2 — that is, to include an exogenous cost increase to make up for the underearnings in the prior year. Carriers that earned more than a certain rate of return — 12.25 percent or 13.25 percent, depending on the productivity factor (or “X-factor”) the carrier selected — in Year 1 were required to make a “sharing” adjustment in Year 2 — that is, to include an exogenous cost decrease, based on the earnings above the permitted rate of return.

Prior to 1995, the Commission did not adopt a rule specifying whether carriers, in calculating their rate of return for Year 2, should use their actual (post-adjustment) earnings or their pre-adjustment earnings. In 1995, the Commission adopted “add-back” for price cap carriers on a going forward basis — the effect of which was to require carriers to use their pre-adjustment earnings — but expressly held that the change to its rules had prospective effect only. *See Report and Order, Price Cap Regulation of Local Exchange Carriers; Rate-of-Return Sharing and Lower Formula Adjustment*, 10 FCC Rcd 5656, 5665, ¶ 49 (1995) (“We agree with commenters that the explicit add-back rule adopted here may, as a legal matter, be applied only on a prospective basis.”).

Prior to 1995, in the absence of clear guidance from the Commission, carriers pursued different approaches. In its 1993 and 1994 tariff filings, NYNEX added-back the adjustments based on its earnings from prior years; Bell Atlantic and GTE, in contrast, did not apply add-

back in their 1993 and 1994 tariff filings.¹⁷ The Bureau suspended and investigated these tariff filings, but the investigations languished until 2003, when the Bureau issued a Public Notice seeking to refresh the record.¹⁸ As Verizon has explained elsewhere, in the absence of any rule requiring or prohibiting add-back, where carriers took a consistent approach in each tariff year, neither the approach taken by NYNEX, on the one hand, nor the approach taken by Bell Atlantic and GTE, on the other hand, was unreasonable.¹⁹

II. THE COMMISSION SHOULD CONCLUDE THESE INVESTIGATIONS WITHOUT ORDERING REFUNDS

As described above, Verizon has demonstrated elsewhere that the tariff filings at issue here are lawful and that it should prevail on the merits. The issue addressed here is, even aside from this fact, whether the Commission should order refunds in the event it were to disagree as to one or more of the issues under investigation. The answer is that it should not.

¹⁷ Although these carriers adopted different approaches, each carrier pursued a consistent approach in each of its annual access tariff filings prior to the Commission's rule change adopting add-back. Nor was their decision to apply (or not apply) add-back based on whether they had made a "lower formula" or a "sharing" adjustment. NYNEX's initial application of add-back occurred after it made a lower formula adjustment, but it continued to apply add-back even after its earnings increased and it incurred sharing obligations. GTE did not apply add-back to any of its local exchange carriers, even though some had made lower formula adjustments and others incurred sharing obligations.

¹⁸ Public Notice, *Further Comment Requested on the Appropriate Treatment of Sharing and Low-End Adjustments Made by Price Cap Local Exchange Carriers in Filing 1993 and 1994 Interstate Access Tariffs*, 18 FCC Rcd 6483 (2003).

¹⁹ See Comments of Verizon, *1993 Annual Access Tariffs; 1994 Annual Access Tariffs*, CC Docket Nos. 93-193, 94-65 (FCC filed May 5, 2003); Reply Comments of Verizon, *1993 Annual Access Tariffs; 1994 Annual Access Tariffs*, CC Docket Nos. 93-193, 94-65 (FCC filed May 19, 2003).

A. The Commission Is Prohibited From Ordering Refunds For a Substantial Portion of the Amounts at Issue, Because of Headroom in Verizon’s Tariff Filings

The Commission’s authority to order refunds in a proceeding to investigate a tariff is limited to “such amounts [as] were paid” that were not lawful. 47 U.S.C. § 204(a); *see AT&T Co. v. FCC*, 836 F.2d 1386, 1394 (D.C. Cir. 1988) (FCC may order refunds at conclusion of § 204 proceeding only of “the portion of amounts paid that was not justified”). The Commission, therefore, cannot order refunds of amounts that were *not* paid, but that lawfully could have been charged, because a carrier elected to charge customers rates *lower than* those permitted under the price caps. As Verizon has shown, the rates in its tariff filings for the years at issue were *tens of millions of dollars below* the price caps. It would be unlawful for the Commission to order Verizon to refund these amounts, which it never collected, even though it was entitled to do so.

1. Under the price cap regime in effect at the time the relevant tariffs were filed, the price cap indices (“PCIs”) for each basket set an upper limit on a carrier’s rates, as measured by the actual price indices (“APIs”). With limited exceptions not relevant here, carriers had discretion to set rates below the PCIs. When a carrier did so, its tariffs had “headroom,” which is the amount by which a carrier’s APIs were lower than its PCIs. As the Commission has explained, headroom “represents charges that could have been, *but were not*, collected from customers.” Memorandum Opinion and Order, *800 Data Base Access Tariffs and the 800 Service Management System Tariff and Provision of 800 Services*, 12 FCC Rcd 8396, 8400, ¶ 11 (1997) (“*800 Database Access Tariffs*”) (emphasis added).

When the Commission disallows a portion of a price cap carrier’s tariff filing, it is concluding that the carrier’s *PCIs* — that is, the ceilings on its rates — were too high. But a determination that a carrier’s PCIs should have been lower is not equivalent to a determination

that a carrier's *rates* were too high and that customers paid too much. On the contrary, the carrier's rates — that is, its APIs — must be compared to its adjusted PCIs before determining whether customers paid rates that were unjust and unreasonable, and subject to refund. If the carrier's APIs remain *equal to or below* the adjusted PCIs, the carrier's rates were within the permissible limit and any refund order would be unlawful. Likewise, in the event the adjusted PCIs are below the carrier's APIs, any order requiring a refund for amounts below the level of the adjusted PCIs also would be unlawful. As the Commission has explained, "[t]here is no basis for 'refunding' . . . amounts [that] were never paid" because the carrier's rates were within the ceiling established by the PCIs. *Id.* More generally, as AT&T has conceded,²⁰ any lawful refund is limited to the amount by "which [a LEC's] API exceeded the PCI, as adjusted, as required by the Commission" — that is, after any exogenous costs that are disallowed by the Commission are removed from the PCI. *800 Database Access Tariffs*, 12 FCC Rcd at 8400, ¶ 11.

2. In a May 27, 2003 filing, Verizon demonstrated that the rates in Bell Atlantic's 1993 and 1994 tariff filings were substantially below the price cap indices. As a result, those filings included approximately \$47.2 million in headroom, which is substantially greater than Bell Atlantic's approximately \$39 million exogenous adjustments included in those filings for OPEB costs prior to 1993. *See* Rebuttal of Verizon to AT&T Opposition to Direct Case at 10 & Exhs. 1-4, CC Docket Nos. 93-193 *et al.* (FCC filed May 27, 2003).²¹ AT&T took issue with

²⁰ *See* AT&T Ex Parte Letter at 3, CC Docket Nos. 93-193 *et al.* (FCC filed Aug. 19, 2003) ("AT&T Aug. 19, 2003 Ex Parte").

²¹ AT&T has claimed that Verizon's headroom calculations should be viewed with skepticism because they were filed with its Rebuttal, rather than with its Direct Case. *See* AT&T Aug. 19, 2003 Ex Parte at 3. In fact, the timing of Verizon's provision this information was the result of Verizon's need to locate, and hire as a consultant, a former employee who had helped prepare Bell Atlantic's 1993 and 1994 tariff filings, illustrating the manner in which Verizon's ability to defend its tariff filings has been prejudiced by the Commission's lengthy delay in

Verizon's headroom calculations in a subsequent ex parte filing, but *even on AT&T's calculations* the maximum refund that could be ordered if the Commission disallowed these exogenous adjustments would be *less than \$7.5 million* — *not* the \$40.6 million that AT&T originally claimed should be refunded. *See* AT&T Aug. 19, 2003 Ex Parte at 3 & Attach.

AT&T, however, continues to present overstated calculations. As the analysis attached hereto demonstrates, the maximum refund that the Commission could lawfully order if it disallowed Bell Atlantic's exogenous adjustments for OPEB costs prior to 1993 included in tariff filings for the period from 1993 through 1995 is *only \$2 million*. This analysis, and the errors in AT&T's calculations, are described below.

Attachment 1 is a revision of Exhibit 3 to Verizon's May 27, 2003 filing, which shows the amounts by which Bell Atlantic's tariffed rates for the 1993-1994 tariff period were below the price caps. Verizon has adjusted the price cap indices for the Common Line basket for that tariff period to account for Verizon's 1997 compliance filing.²² In that filing, Verizon corrected its "g" factor for 1993 and relied on approximately \$1 million of the more than \$18 million in headroom in that basket (but no other baskets), leaving more than \$17 million of headroom remaining in that basket.²³ Attachment 2 replicates the data in Exhibit 4 to Verizon's May 27,

resolving these proceedings. Indeed, Verizon is still attempting to investigate the headroom available in the GTE tariffs that are under investigation.

²² In Attachment 1, Verizon has also corrected a typographical error to the API for the Originating CCL Premium in effect on June 30, 1994, which was presented in Exhibit 3 as 0.00885, but should have been 0.008855.

²³ *See* Letter from Joseph J. Mulieri, Verizon, to William F. Caton, Acting Secretary, FCC, Transmittal No. 977 (FCC filed June 30, 1997) ("Transmittal No. 977"). AT&T noted this issue in its August 19, 2003 ex parte. *See* AT&T Aug. 19, 2003 Ex Parte at 3 & n.7. Contrary to AT&T's claim, however, Bell Atlantic did pay refunds, with interest, through an exogenous adjustment to its Common Line price cap index, after the Commission required Verizon to correct the "g" factor for the 1994-1995 tariff period. *See* Transmittal No. 977, Fig. 5, Workpapers E-2, E-5. As AT&T's own calculations show, Bell Atlantic had no headroom available in the Common Line basket for the 1994-1995 tariff period.

2003 filing and shows the amounts by which Bell Atlantic's tariffed rates for the 1994-1995 tariff period were below the price caps.²⁴ The pages from the tariff filings containing the data used in Attachments 1 and 2, are contained in Attachments 4 and 5, respectively.

Attachment 3 mirrors the attachment to AT&T's August 19, 2003 ex parte, but with AT&T's erroneous calculations corrected. Specifically, AT&T miscalculated the headroom in Bell Atlantic's 1993 tariff filing for three of the four baskets — the Common Line, Traffic Sensitive, and Special Access/Trunking baskets.²⁵ For the 1993 tariff period, Verizon calculated headroom by averaging the amount by which rates are below the price cap index at the beginning and end of the tariff period — indeed, this is exactly how AT&T calculated available headroom for the Interexchange basket in Bell Atlantic's 1993 tariff filing and for all of the baskets in the 1994 tariff filing.²⁶ Without offering any explanation, AT&T did not follow this methodology in calculating headroom for the other three baskets in Bell Atlantic's 1993 tariff filing, instead using only the figure for the beginning of the tariff period.²⁷ The methodology needs to be

²⁴ Exhibit 4 had incorrectly suggested that the first group of data was drawn from the 1994 OPEB Transmittal No. 690 *and* the 1993 Tariff Review Plan of BATR. Verizon has corrected Attachment 4 to reflect that all of that data came from the 1994 OPEB Transmittal No. 690.

²⁵ During the 1993 tariff period, the Commission created a new Trunking basket, containing special access services (including the entire basket formerly known as Special Access) and transport services (which had been part of the Traffic Sensitive basket). *See* Second Report and Order, *Transport Rate Structure and Pricing*, 9 FCC Rcd 615 (1994).

²⁶ For example, as seen on Attachment 1, in 1993 Bell Atlantic's interexchange rates were \$1,684,682 below the cap at the beginning of the tariff period (July 1, 1993) and were \$1,912,169 below the cap at the end of the tariff period (June 30, 1994). The average of these two figures is \$1,798,425.50, which is shown as \$1,798,426 in available headroom in Attachment 3 and as \$1,798,425 in available headroom in the attachment to AT&T's August 19, 2003 ex parte.

²⁷ For example, as shown on Attachment 1, at the beginning of the tariff period, Bell Atlantic's special access rates were \$152,195 below the cap — which is the figure that appears as the available headroom in the Special Access basket in the attachment to AT&T's August 19, 2003 ex parte. AT&T thus ignored that, mid-way through this tariff period, the Special Access

revised slightly for the 1994 tariff period, because Verizon modified its rates, through Transmittal 690, three-and-a-half months into the tariff period.²⁸ When the proper methodology is used to calculate the available headroom in Bell Atlantic's tariff filings for the period from 1993 through 1995, it is evident that there is sufficient headroom to eliminate all potential OPEB liability in the 1993-1994 tariff period and all but about \$2 million for the 1994-1995 tariff period.

Indeed, even if the Commission disallowed the OPEB exogenous adjustments, Bell Atlantic *would still have more than \$9.5 million in headroom remaining* in its 1993 and 1994 tariffs, in the event the Commission also found that Bell Atlantic's decision not to use add-back was unreasonable. On the other hand, if the Commission finds — as it should — that the exogenous adjustments for OPEB costs were consistent with the Commission's rules, then Bell Atlantic *would have more than \$47 million in headroom* to apply in the event the Commission found unreasonable Bell Atlantic's decision not to use add-back and sought to order refunds.

basket was made part of the newly created Trunking basket, in which Verizon's rates were \$14,383,350 below the cap by the end of that tariff period. *See supra* note 25. Only by disregarding the Commission's restructuring of the price cap baskets, is AT&T able to ignore more than \$7 million in headroom in Verizon's tariff filing.

²⁸ Therefore, Verizon used a weighted average to calculate headroom, which it applied as follows. As shown in Exhibit 4 to Verizon's May 27, 2003 filing, Verizon's interexchange rates were \$1,089,802 below the cap at the beginning of the tariff period (July 1, 1994). Those rates were in effect for 3.5 months. Verizon's Transmittal 690 modified its interexchange rates, so that they were \$1,330,261 below the cap. Those rates were in effect for 8.5 months. The weighted average of these amounts, which is shown in Attachment 3, is \$1,260,127.13. $[\$1,089,802 \times (3.5 / 12)] + [\$1,330,261 \times (8.5 / 12)] = \$1,260,127.13$. As a practical matter, the different calculation methods arrive at virtually the same result, with AT&T's method slightly overstating the headroom available in the Traffic Sensitive and Trunking baskets and slightly understating the headroom available in the Interexchange basket.

B. The Commission Is Prohibited From Ordering Refunds Based on Verizon's Application of "Add-Back," Because Such Refunds Would Be Impermissibly Retroactive

Under the price cap regime in place at the time Verizon made its 1993 and 1994 tariff filings, carriers were permitted to select a productivity, or X-factor, of 3.3 percent or 4.3 percent. A carrier choosing the higher X-factor would have lower price cap indexes, but would be permitted a greater rate of return before the sharing obligation applied. *See Bell Atlantic Tel. Cos. v. FCC*, 79 F.3d 1195, 1199 & n.5 (D.C. Cir. 1996). Prior to the Commission's 1995 decision mandating the use of add-back on a prospective basis, a carrier's choice of X-factor was influenced by its understanding of whether add-back was appropriate; a carrier that did not apply add-back would be more likely to select the lower X-factor, along with its lower sharing threshold. *See id.* at 1207. Indeed, while Bell Atlantic selected the lower X-factor in its 1993 and 1994 tariff filings, when it did not apply add-back, it selected the higher X-factor for its 1995 and 1996 tariff filings, after the Commission made add-back mandatory. Because carriers made these decisions in 1993 and 1994 in the absence of any express guidance, an order requiring refunds based on a finding that some of these carriers chose wrong would retroactively deprive those carriers of "the benefit of th[e] decision" to choose one X-factor rather than the other. *Id.*

Courts distinguish between two types of retroactivity — primary retroactivity, when a decision would "increase a party's liability for past conduct," which is impermissible in the absence of express Congressional authorization, and secondary retroactivity, when a "rule having exclusively 'future effect' . . . affect[s] the desirability of past transactions," which is generally permissible.²⁹ When the D.C. Circuit upheld the Commission's decision to require the use of

²⁹ *Celtronix Telemetry, Inc. v. FCC*, 272 F.3d 585, 588-89 (D.C. Cir. 2001) (quoting *Landgraf v. USI Film Products*, 511 U.S. 244, 280 (1994)). The Commission has no authority to adopt retroactive rules, which are prohibited by the Administrative Procedures Act. *See id.* at 588.

add-back prospectively, it described “any retroactive effect” of that rule as “only secondary,” because “the add-back rule has only future effect” and “does not change or invalidate *any current tariffs*.” *Bell Atlantic*, 79 F.3d at 1207 (emphasis added). In contrast, ordering refunds based on the manner in which Bell Atlantic and GTE, on the one hand, or NYNEX, on the other hand, decided to apply add-back *before* the adoption of the Commission’s add-back rule would have *primary* retroactive effect, because it would “change or invalidate” the 1993 and 1994 tariffs that the D.C. Circuit explicitly noted were *not* affected by the Commission’s new add-back rule. *Id.* Indeed, the D.C. Circuit expressly recognized that carriers that chose the lower X-factor “in previous years” — that is, in 1993 and 1994 — “have already received the benefit of that decision through higher price caps in those years.” *Id.* An order requiring refunds would deny carriers “the benefit of [that] bargain” and, therefore, is impermissible.

In any event, there can be no doubt that it was not “ascertainably certain” whether carriers should apply add-back in their 1993 and 1994 tariff filings. *Trinity Broadcasting of Fl., Inc. v. FCC*, 211 F.3d 618, 628 (D.C. Cir. 2000). Indeed, the D.C. Circuit has expressly found that, prior to the Commission’s adoption of its prospective add-back rule, the “state of the law has *never* been clear.” *Bell Atlantic*, 79 F.3d at 1207 (emphasis added); *see id.* (carriers “made their X-factor decisions in the face of *considerable uncertainty* about whether the [price cap regime] included add-back”) (emphasis added). Because Verizon, “by reviewing the regulations and other public statements issued by the agency,” could not have “identif[ied], with ‘ascertainable certainty,’” whether it was required to use add-back, the Commission is prohibited from punishing Verizon for failing to foresee the interpretation the Commission later adopted. *General Elec. Co. v. EPA*, 53 F.3d 1324, 1328-34 (D.C. Cir. 1995); *see Trinity*, 211 F.3d at 628;

PMD Produce Brokerage Corp. v. USDA, 234 F.3d 48, 51-54 (D.C. Cir. 2000); *United States v. Chrysler Corp.*, 158 F.3d 1350, 1354-57 (D.C. Cir. 1998).

C. The Commission Should Not Order Refunds As an Exercise of Its Equitable Discretion

Even if the Commission were to find a tariff filing unlawful where it was not prohibited from ordering refunds — either because of headroom or because such an order would be impermissibly retroactive — it need not and should not order refunds in these investigations. As the Commission has repeatedly recognized, a finding that a tariff is unlawful — which, as we have shown elsewhere, is not justified here in any event — does not compel the Commission to order refunds. On the contrary, the Commission “can exercise [its] discretion not to order refunds even when there is a finding of overearnings.”³⁰ Refunds, as the federal courts have held and the Commission explained long ago, are “a matter of equity,” and the Commission must “balance the interests of both the carrier and the customer in determining the public interest,” with “each case . . . examined in light of its own particular circumstances.” *American Television Relay*,³¹ 67 F.C.C.2d at 708-09, ¶ 15; see *Public Service Comm’n v. Economic Regulatory Admin.*, 777 F.2d 31, 36 & n.5 (D.C. Cir. 1985); *Las Cruces TV Cable v. FCC*, 645 F.2d 1041, 1047 (D.C. Cir. 1981). Applying this standard, the Commission has found it inappropriate to order refunds in a number of proceedings where it found that a carrier had overearned.³² In this

³⁰ Order on Reconsideration, *800 Data Base Access Tariffs and the 800 Service Management System Tariff and Provision of 800 Services*, 12 FCC Rcd 5188, 5196, ¶ 18 (emphasis omitted) (“800 Data Base Order on Reconsideration”).

³¹ Memorandum Opinion and Order, *American Television Relay, Inc., Refunds Resulting from the Findings and Conclusions in Docket 19609*, 17 F.C.C.2d 703 (1978).

³² See, e.g., Memorandum Opinion and Order, *Tariffs Implementing Access Charge Reform*, 13 FCC Rcd 14683 (1998); Memorandum Opinion and Order, *Local Exchange Carrier Access Tariff Rate Levels; Bell Atlantic Telephone Companies Tariff F.C.C. No. 1; GVNW Inc./Management Bourbeuse Telephone Company Tariff F.C.C. No. 1*, 13 FCC Rcd 6202 (1993);

case, equitable considerations demonstrate that refunds would not be warranted even if the Commission determined that the Verizon tariffs at issue were unlawful in one or more respects.

The Commission historically has used two methods for ordering refunds — either ordering a carrier to make payments (or give credits) to the customers that purchased services from the tariffs while they were effective or ordering a carrier to make going forward reductions through an exogenous adjustment to the carrier’s PCIs. Neither would be appropriate here. As described below, such refunds would provide no benefit to end-user customers, and instead would bestow unjustified windfalls on a select group of interexchange carriers.

1. An order requiring Verizon to provide refunds through payments (or credits) to past purchasers would create substantial practical difficulties in implementation. For example, notwithstanding the accounting orders, there will be difficulties in allocating the amount of any refund — which is based on a comparison of the APIs and the adjusted PCIs — to the purchasers from the various tariffs, based on the quantities of each service purchased. In addition, many of the purchasers no longer exist in their prior corporate form, and there likely would be substantial disputes about the appropriate recipients of such refunds.³³ In comparable circumstances, the Commission refused to order refunds, holding that “the significant administrative costs — both to industry and to the Commission — . . . outweigh[] the benefit that would be gained from determining precisely which particular IXC paid more.”³⁴

Memorandum Opinion and Order, *Investigation of Special Access Tariffs of Local Exchange Carriers*, 5 FCC Rcd 1717 (1990).

³³ Cf. *World Communications, Inc. v. FCC*, 20 F.3d 472 (D.C. Cir. 1994) (reviewing Commission’s resolution of dispute between two carriers about which was entitled to refunds due to a company that had ceased doing business).

³⁴ *Tariffs Implementing Access Charge Reform*, 13 FCC Rcd. at 14752-53, ¶ 178.

In any event, to the extent that the Commission does not, or cannot, require IXCs to pass through any refunds on a dollar-for-dollar basis to the consumers to whom the IXCs passed through Verizon's charges — and in the absence of any likelihood they will do so voluntarily — refunds would provide no benefit to consumers and would serve only to enrich the small group of long-distance carriers that controlled the market a decade ago.

First, AT&T, as a result of its predominant share of the interexchange market at that time, was the largest purchaser during the periods at issue, and thus the largest potential recipient of such refunds. But AT&T recovered additional costs *from its customers* in its 1993 tariff based on the LECs' treatment of OPEB costs.³⁵ As the Common Carrier Bureau found, in its order investigating AT&T's tariffs, AT&T had raised its rates such that, for two of the price cap baskets, the rates "would exceed the[] [cap] if the indices were adjusted to exclude TBO amounts," which are "directly related to the exogenous treatment of TBO amounts by LECs in their 1993 annual access filings."³⁶ Therefore, if the Commission were to order refunds after finding — which it should not — that Bell Atlantic's exogenous adjustments for OPEB costs prior to 1993 was unlawful, that would mean that AT&T's prices also were unlawfully high, because they were based, in part, on Bell Atlantic's implementation of SFAS 106. As a result, the Commission would be obligated to order AT&T to refund, dollar-for-dollar, the amounts it collected under tariffs that are subject to investigation in these proceedings as well, lest AT&T receive an unjustified windfall.

³⁵ See Memorandum Opinion and Order Suspending Rates and Designating Issues for Investigation, *AT&T Communications Tariff* FCC Nos. 1 and 2 Transmittal Nos. 5460, 5461, 5462 and 5464, 8 FCC Rcd 6227 (1993).

³⁶ *Id.* at 6227, ¶ 3. That 1993 tariff is still under investigation; the Bureau stayed its consideration of AT&T's tariff filing pending its resolution of the investigation into the LECs' filings. See *id.* at 6227, ¶ 4.

But AT&T undoubtedly would claim that it would be virtually impossible to find and issue refunds to all the customers that AT&T overcharged. As a result of shifts in the market, many customers no longer obtain service from AT&T; instead, many have shifted to long-distance calling options that did not exist in 1993, including wireless service, the Internet, and long-distance services offered by the former Bell companies. Moreover, since the inception of these investigations, AT&T has moved from price cap regulation to non-dominant and non-tariffed deregulation. It is unclear how the Commission, in these changed circumstances could enforce AT&T's obligation to issue refund checks to those customers that purchased under the AT&T tariffs subject to investigation. AT&T presumably would claim that it should be allowed simply to pocket the money and, therefore, would be unjustly enriched by any refund.

Second, refunds would provide a windfall to *any* interexchange carrier that purchased access charges and recovered the alleged overcharges in the tariffs at issue by increasing their rates accordingly, not merely to AT&T. Indeed, at the relevant time, AT&T was the price leader in the market for interexchange services, and other, non-price-cap IXC's generally mirrored AT&T's price increases, which incorporated the effects of increases in the LECs' access tariffs.³⁷ Such carriers, therefore, were not harmed by any alleged overcharges in the LEC tariffs, because they passed those charges through to their customers. Ordering refunds in the absence of any harm would necessarily provide those carriers with an unearned windfall.³⁸

³⁷ See Declaration of Paul W. MacAvoy ¶¶ 23, 78, Figure 3 (finding that pricing data "suggest a 'follow-the-leader' pattern of pricing behavior, where AT&T leads . . . [and] MCI and Sprint indicate their willingness to follow AT&T by essentially matching its pricing behavior"), *attached to* Application by Bell Atlantic-New York for Authority To Provide In-Region, InterLATA Services in New York, CC Docket No. 99-295 (FCC filed Sept. 29, 1999).

³⁸ The prospect of unjust enrichment is particularly evident with respect to WorldCom, which is the second largest potential recipient of refunds and which is in the process of emerging from bankruptcy, where it will avoid a substantial portion of its debts. Any refunds that might be

Even if there were reason to assume that these carriers would pass any refunds through to their customers — and there is no reason to suppose they will — the end-user customers that would benefit are not those that suffered the harm from any alleged overcharges in Verizon’s tariffs from 1993, 1994, and 1996. Not only has the passage of time changed the composition of the consumers that use long-distance services, but those consumers now use cell phones, their cable companies (whether through circuit switching or Voice-over-Internet Protocol (“VoIP”)), and e-mail as substitutes for wireline long-distance service. Indeed, “[c]ompetition from e-mail and wireless companies . . . has cut into long-distance companies’ market share.”³⁹ And VoIP providers, including cable companies, which provide their customers with long-distance services, are taking an ever-increasing share of the market.⁴⁰

2. For the foregoing reasons, any refunds the Commission ordered would, as a practical matter, have to be implemented through a one-time reduction in Verizon’s PCIs for its next tariff filing. Such refunds, too, would be inequitable, by providing refunds to carriers that did not purchase services from Verizon’s 1993, 1994, and 1996 tariff filings and, therefore, suffered none of the purported harm. The carriers that purchase services from Verizon’s access

due to WorldCom — in a proceeding that, by statute, should have been completed years ago — properly belong to its creditors.

³⁹ M. Schoener, *et al.*, Gartner, *Fixed Public Network Services, United States, 2001-2007* at 25 (June 17, 2003) (“Residential wireline retail [voice long distance] will continue to see double-digit traffic declines in the face of wireless and Internet substitution.”); D. Meyer, *Landline Displacement to be Continued Market Driver*, RCR Wireless News (Nov. 4, 2002) (“the landline displacement market could be worth as much as \$50 billion by 2006 with more than 40 percent of all landline calls being usurped by wireless calls in the next several years”).

⁴⁰ *Bernstein Cable Telephony Report* at 1; *id.* at 4 (“We now believe that by 2006, roughly 82% of total US households will be cable telephony marketable, up from a prior forecast of approximately 70%); *see also* *UBS High-Speed Data Update* at 12 (“By the end of 2005/2006” the four major “cable operators will have rolled out a cable telephony service across substantially all of their respective footprints, representing total homes of approximately 70 million.”).

tariffs today are far different from those that purchased services from the tariffs under investigation. For example, in 1993, AT&T had nearly 60 percent of the long-distance market — as of 2002, its share was half that and it has continued to decline.⁴¹ Moreover, due to the growth in wireless subscribership between 1993 and today — with the number of subscribers increasing from 16 million in 1993 to approximately 150 million in mid-2003⁴² — wireless carriers are purchasing from these tariffs in far greater quantities than they did in 1993. In short, many of today’s purchasers either did not pay the alleged overcharges 8 to 10 years ago or had a lower market share at that time. Therefore, a refund through a lowering of next year’s price cap indices would provide these carriers an unwarranted windfall — the refund would be in excess of the harm, if any, they suffered.

In addition, such a refund order would be inconsistent with the current access charge regime, which has changed substantially since these investigations were initiated. The Commission’s 1997 *Access Charge Reform Order*⁴³ and 2000 *CALLS Order*⁴⁴ fundamentally restructured the price caps, shifting costs from traffic sensitive rates paid by interexchange carriers to flat-rates paid by subscribers. The *CALLS Order* also required LECs subject to price caps to reach a “target rate” for their traffic sensitive charges, which was based on an industry-wide compromise designed, in part, to lower the access charges paid by interexchange carriers

⁴¹ See Federal Communications Commission, *Statistics of Communications Common Carriers: 2002/2003 Preliminary Edition*, at Table 1.4 (Nov. 10, 2003).

⁴² See CTIA, CTIA’s Semi-Annual Wireless Industry Survey Results: June 1985-June 2003, at http://www.wow-com.com/pdf/MidYear_2003_survey.pdf.

⁴³ See First Report and Order, *Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Transport Rate Structure and Pricing; End User Common Line Charges*, 12 FCC Rcd 15982 (1997), *petitions for review denied*, 153 F.3d 523 (8th Cir. 1998).

⁴⁴ See Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, *Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers*, 15 FCC Rcd 12962, 13025-39, ¶¶ 150-184 (2000) (“*CALLS Order*”).

and, in turn, to facilitate reductions in long-distance rates paid by consumers. As the Commission explained in that order, the “purpose of establishing a target rate is to guarantee a particular rate level for switched access services.”⁴⁵ Ordering a “refund” that has the effect of reducing access charges would go beyond the rate reductions called for in the *CALLS Order*, and undo the “guarantee” that was part of the *CALLS* compromise that the Commission approved.

3. Regardless of the method used, ordering refunds would be inequitable because the Commission’s lengthy delays in resolving each of these issues have prejudiced Verizon’s ability to defend the tariff filings at issue.⁴⁶ In the more than 10 years since the Bureau initiated the first of these investigations, key personnel and expert witnesses who helped prepare Verizon’s tariff filings have left the company or moved on to other responsibilities and memories have faded. All of this has impaired Verizon’s ability to reconstruct and defend the complex calculations and studies that resulted in the tariff filings made in 1993, 1994, and 1996. Indeed, Verizon is still attempting to investigate the available headroom in GTE’s 1993, 1994, and 1996 tariff filings — calculations that could have been completed quickly 8 or 10 years ago. It is simply inequitable for the Commission to order refunds when its own delay has compromised a party’s ability to defend its decade-old tariff filings and therefore contributed to an adverse ruling on the tariff’s lawfulness.

⁴⁵ *CALLS Order*, 15 FCC Rcd at 13030, ¶ 164.

⁴⁶ Although the Commission has previously rejected claims that a “proceeding has gone on too long equitably to require that any refunds be ordered,” those claims were based on assertions that the delay in resolving the proceedings increased the carriers’ liability exposure, which is not Verizon’s claim here. *800 Data Base Order on Reconsideration*, 12 FCC Rcd at 5194-95, ¶ 16.

ATTACHMENT 1

Bell Atlantic
Amount Priced Below Cap for 1993/1994 Tariff Period

Attachment 1
(revises Exhibit 3 to Verizon's May 27, 2003 filing)

	1993 Annual Compliance #579 7/1/93				Indices and Rates in Effect on 6/30/1994			
	PCI or Maximum Allowable	API or Rate	Revenues	Amount Below	PCI or Maximum Allowable	API or Rate	Revenues	Amount Below
	A	B	C	$D=((B-A)/A)*C$	A	B	C	$D=((B-A)/A)*C$
Terminating CCL Premium	0.00917	0.008829	270288491	(10,051,077)	0.009197	0.008855	228490026	(8,496,639)
Terminating CCL Non Premium	0.004127	0.003973	46299	(1,728)	0.004139	0.003985	31633	(1,177)
Originating CCL Premium	0.00917	0.008829	183214208	(6,813,091)	0.009197	0.008855	250332466	(9,308,873)
Originating CCL Non Premium	0.004127	0.003973	6648	(248)	0.004139	0.003985	4108	(153)
Traffic Sensitive	88.8299	86.3836	934350644	(25,731,223)	88.9248	86.4752	485937801	(13,386,066)
Special Access	88.517700	88.4812	369094125	(152,195)				
Trunking					90.0006	88.4832	853110660	(14,383,350)
Interexchange	98.658300	97.4858	141755085	(1,684,682)	98.8142	97.4858	142238351	(1,912,169)
Total				(44,434,244)				(47,488,427)

SOURCES

	1993 Tariff Review Plan of BATR/TM # 977				1994 Tariff Review Plan of BATR/TM # 977			
Terminating CCL Premium	Line 39 WP A-3	RTE-1 Ln 140 Col D	RTE-1 Ln 140 Col G		Line 7 WP B-3	RTE-1 Ln 140 Col C	RTE-1 Ln 140 Col F	
Terminating CCL Non Premium	45% of Terminating CCL Prem	RTE-1 Ln 150 Col D	RTE-1 Ln 150 Col G		45% of Terminating CCL Prem	RTE-1 Ln 150 Col C	RTE-1 Ln 150 Col F	
Originating CCL Premium	Line 39 WP A-3	RTE-1 Ln 160 Col D	RTE-1 Ln 160 Col G		Line 8 WP B-3	RTE-1 Ln 160 Col C	RTE-1 Ln 160 Col F	
Originating CCL Non Premium	45% of Originating CCL Prem	RTE-1 Ln 170 Col D	RTE-1 Ln 170 Col G		45% of Originating CCL Prem	RTE-1 Ln 170 Col C	RTE-1 Ln 170 Col F	
Traffic Sensitive	IND-1 Ln 150 Col A	IND-1 Ln 150 Col B	SUM-1 Ln 170 Col C		IND-1 Ln 160 Col I	IND-1 Ln 160 Col G	SUM-1 Ln 170 Col B	
Special Access	IND-1 Ln 280 Col A	IND-1 Ln 280 Col B	SUM-1 Ln 220 Col C		NA	NA	NA	
Trunking	NA	NA	NA		IND-1 Ln 520 Col I	IND-1 Ln 520 Col G	SUM-1 Ln 220 Col B	
Interexchange	IND-1 Ln 290 Col A	IND-1 Ln 290 Col B	SUM-1 Ln 230 Col C		IND-1 Ln 600 Col I	IND-1 Ln 600 Col G	SUM-1 Ln 230 Col B	

ATTACHMENT 2

Bell Atlantic
Amount Priced Below Cap for 1994/1995 Tariff Period

Attachment 2
(revises Exhibit 4 to Verizon's May 27, 2003 filing)

	1994 OPEB Transmittal #690				1994 Annual Compliance Filing 7/1/94			
	PCI or Maximum Allowable	API or Rate	Revenues	Amount Below	PCI or Maximum Allowable	API or Rate	Revenues	Amount Below
	A	B	C	$D=((B-A)/A)*C$	A	B	C	$D=((B-A)/A)*C$
Terminating CCL Premium	0.00757	0.00757	195332523	-	0.00752	0.00752	194042348	-
Terminating CCL Non Premium	0.003407	0.003407	27045	-	0.003384	0.003384	26863	-
Originating CCL Premium	0.00757	0.00757	214005282	-	0.00752	0.00752	212591772	-
Originating CCL Non Premium	0.003407	0.003407	3512	-	0.003384	0.003384	3488	-
Traffic Sensitive	84.3909	84.3893	474216103	(8,991)	84.1617	84.1552	472900822	(36,523)
Special Access								
Trunking	85.4235	85.4234	823610236	(964)	85.1775	85.177	821234492	(4,821)
Interexchange	93.371700	92.4509	134892160	(1,330,261)	93.2039	92.4509	134892160	(1,089,802)
Total				(1,340,216)				(1,131,146)

SOURCES

	1994 OPEB Transmittal #690				1994 Tariff Review Plan for 1994 Annual Compliance			
	CCL-1 Ln 480 Col A	RTE-1 Ln 140 Col D	RTE-1 Ln 140 Col G		CCL-1 Ln 480 Col A	RTE-1 Ln 140 Col D	RTE-1 Ln 140 Col G	
Terminating CCL Premium	45% of Terminating CCL Prem	RTE-1 Ln 150 Col D	RTE-1 Ln 150 Col G		45% of Terminating CCL Prem	RTE-1 Ln 150 Col D	RTE-1 Ln 150 Col G	
Terminating CCL Non Premium	CCL-1 Ln 480 Col A	RTE-1 Ln 160 Col D	RTE-1 Ln 160 Col G		CCL-1 Ln 480 Col A	RTE-1 Ln 160 Col D	RTE-1 Ln 160 Col G	
Originating CCL Premium	45% of Originating CCL Prem	RTE-1 Ln 170 Col D	RTE-1 Ln 170 Col G		45% of Originating CCL Prem	RTE-1 Ln 170 Col D	RTE-1 Ln 170 Col G	
Originating CCL Non Premium	IND-1 Ln 160 Col A	IND-1 Ln 160 Col B	SUM-1 Ln 170 Col C		IND-1 Ln 160 Col A	IND-1 Ln 160 Col B	SUM-1 Ln 170 Col C	
Traffic Sensitive	NA	NA	NA		NA	NA	NA	
Special Access	IND-1 Ln 520 Col A	IND-1 Ln 520 Col B	SUM-1 Ln 220 Col C		IND-1 Ln 520 Col A	IND-1 Ln 520 Col B	SUM-1 Ln 220 Col C	
Trunking	IND-1 Ln 600 Col A	IND-1 Ln 600 Col B	SUM-1 Ln 230 Col C		IND-1 Ln 600 Col A	IND-1 Ln 600 Col B	SUM-1 Ln 230 Col C	
Interexchange								

ATTACHMENT 3

Attachment 3

Bell Atlantic's Available Headroom and OPEB Exogenous Cost Adjustments for 1993/1994 and 1994/1995 Tariff Periods

1993/1994 Tariff Period

	Common Line	Traffic Sensitive	Special Access/Trunking*	Interexchange	Total
Available Headroom (Attachment 1)	(17,336,493)	(19,558,645)	(7,267,773)	(1,798,426)	
1991 and 1992 OPEB Exog Cost	16,509,680	13,883,140	5,628,300	1,500,880	
Maximum Lawful Potential Refund	-	-	-	-	0
Remaining Headroom After Refund	(826,813)	(5,675,505)	(1,639,473)	(297,546)	(8,439,337)

* During the tariff period, Special Access became part of the newly created Trunking basket, along with a portion of the Traffic Sensitive basket

1994/1995 Tariff Period

	Common Line	Traffic Sensitive	Trunking	Interexchange	Total
Available Headroom (Exh. 4, 5/27/03)	-	(17,021)	(2,089)	(1,260,127)	
1991 and 1992 OPEB Exog Cost	1,012,380	366,180	667,740	107,700	
Maximum Lawful Potential Refund	1,012,380	349,159	665,651	-	2,027,190
Remaining Headroom After Refund	-	-	-	(1,152,427)	(1,152,427)

ATTACHMENT 4

SUM-1

Filing Entity: BATR

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1993 Annual Filing
Price Cap Tariff Review Plan
Price Out Summary

		BASE PERIOD DEMAND x RATES AT LAST PCI UPDATE	BASE PERIOD DEMAND x CURRENT RATES	BASE PERIOD DEMAND x PROPOSED RATES	BASE PER DMD x CURR RATES minus BASE PER DMD x RATES AT LAST PCI UPDATE	BASE PER DMD x PROP RATES minus BASE PER DMD x CURRENT RATES
		(A)	(B)	(C)	(D) = (B) - (A)	(E) = (C) - (B)
Common Line Basket						
100	End User Common Line	781,565,994	781,565,994	833,653,493	0	52,087,499
110	Carrier Common Line	417,852,711	417,852,711	453,555,646	0	35,702,935
120	Total Common Line	1,199,418,705	1,199,418,705	1,287,209,139	0	87,790,434
Traffic Sensitive Basket						
130	Local Switching	420,790,480	420,872,162	392,031,875	81,682	(28,840,287)
140	Local Transport	511,891,275	520,616,422	465,230,881	8,725,147	(55,385,541)
150	Information	69,401,613	69,711,066	66,926,017	309,453	(2,785,049)
160	800 Services	10,291,810	10,291,810	10,161,871	0	(129,939)
170	Total Switched Access	1,012,375,178	1,021,491,460	934,350,644	9,116,282	(87,140,816)
Special Access Basket						
180	Voice Grade, Wats, Metallic & Telegraph	110,730,806	113,836,705	107,536,731	3,105,899	(6,299,974)
190	Audio & Video	8,975,240	8,975,240	8,440,968	0	(534,272)
200	High Caps & DDS	273,570,192	274,310,863	253,035,370	740,671	(21,275,493)
210	Wideband	83,550	83,550	81,056	0	(2,494)
220	Total Special Access	393,359,788	397,206,358	369,094,125	3,846,570	(28,112,233)
Interexchange Basket						
230	Total Interexchange	143,370,010	143,370,010	141,755,085	0	(1,614,925)

Note: Display whole numbers.

1993 Annual Filing
Price Cap Tariff Review Plan
Indexes

	PROPOSED PCI	PROPOSED API	PROPOSED SBI	UPPER SBI LIMIT	LOWER SBI LIMIT	EXISTING PCI	EXISTING API	EXISTING SBI	6/30/93 PCI	6/30/93 SBI
	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)
Common Line Basket										
100 Total Common Line	92.9527	N/A	N/A	N/A	N/A	86.1589	N/A	N/A	86.1589	N/A
Traffic Sensitive Basket										
110 Local Switching	N/A	N/A	96.6447	102.4699	92.7108	N/A	N/A	103.7545	N/A	103.7545
120 Local Transport	N/A	N/A	77.7418	85.9198	77.7369	N/A	N/A	86.9969	N/A	86.9969
130 Information	N/A	N/A	98.5936	101.4250	91.7655	N/A	N/A	102.6965	N/A	102.6965
140 800 Services	N/A	N/A	93.5277	93.5508	84.6412	N/A	N/A	94.7236	N/A	94.7236
150 Total Switched Access	88.8299	86.3836	N/A	N/A	N/A	94.4407	94.4400	N/A	94.4407	N/A
Special Access Basket										
160 Voice Grade, Wats, Metallic & Telegraph	N/A	N/A	95.6019	98.2041	88.8513	N/A	N/A	101.2027	N/A	101.2027
170 Audio & Video	N/A	N/A	98.1658	101.2864	91.6401	N/A	N/A	104.3792	N/A	104.3792
180 High Caps & DDS	N/A	N/A	82.7172	87.0151	78.7280	N/A	N/A	89.6721	N/A	89.6721
190 DS-1 SUB-CAT	N/A	N/A	81.6528	84.9923	76.8978	N/A	N/A	87.5875	N/A	87.5875
200 Density Zone 1	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
210 Density Zone 2	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
220 Density Zone 3	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
230 DS-3 SUB-CAT	N/A	N/A	76.7643	80.4243	72.7648	N/A	N/A	82.8800	N/A	82.8800
240 Density Zone 1	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
250 Density Zone 2	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
260 Density Zone 3	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
270 Wideband	N/A	N/A	102.1446	102.1692	92.4388	N/A	N/A	105.2889	N/A	105.2889
280 Total Special Access	88.5177	88.4812	N/A	N/A	N/A	95.7816	95.2204	N/A	95.7816	N/A
Interexchange Basket										
290 Total Interexchange	98.6583	97.4858	N/A	N/A	N/A	98.6207	98.5964	N/A	98.6207	N/A

NOTES: (1) Display indexes as percents to four decimal places (e.g., display 100 as 100.0000).
(2) For the annual access filing, Column (I) will equal Column (F) and Column (J) will equal Column (H).

SUM-1

Filing Date: 6/29/94

Filing Entity: BATR

Transmittal Number: 673

1994 Annual Compliance Filing (Filename: BATRAN94.WK3)

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Price Cap Tariff Review Plan
Price Out Summary

	BASE PERIOD DEMAND x RATES AT LAST PCI UPDATE	BASE PERIOD DEMAND x CURRENT RATES	BASE PERIOD DEMAND x PROPOSED RATES	BASE PER DMD x CURR RATES minus BASE PER DMD x RATES AT LAST PCI UPDATE	BASE PER DMD x PROP RATES minus BASE PER DMD x CURRENT RATES
	(A)	(B)	(C)	(D) = (B) - (A)	(E) = (C) - (B)
Common Line Basket					
100 End User Common Line	857,349,807	857,349,807	856,339,036	0	(1,010,771)
110 Carrier Common Line	478,858,233	478,858,233	406,664,471	0	(72,193,762)
120 Total Common Line	1,336,208,040	1,336,208,040	1,263,003,507	0	(73,204,533)
Traffic Sensitive Basket					
130 Local Switching	412,185,253	412,185,253	401,023,592	0	(11,161,661)
150 Information	68,697,378	68,697,378	66,855,164	0	(1,842,214)
160 Database Access	5,054,411	5,054,411	5,021,307	0	(33,104)
165 Billing Name and Address	759	759	759	0	0
170 Total Switched Access	485,937,801	485,937,801	472,900,822	0	(13,036,979)
Trunking Basket					
171 Interconnection Charge	368,964,573	367,826,630	348,102,279	(1,137,943)	(19,724,351)
175 Tandem Switched Transport	18,641,723	18,641,723	17,909,520	0	(732,203)
180 Voice Grade,WATS,Metallic & Telegraph	104,107,306	104,107,306	103,446,744	0	(660,562)
190 Audio & Video	9,142,893	9,142,893	9,085,562	0	(57,331)
200 High Caps & DDS	353,327,567	353,327,567	342,626,181	0	(10,701,386)
210 Wideband	64,741	64,741	64,206	0	(535)
220 Total Trunking	854,248,803	853,110,860	821,234,492	(1,137,943)	(31,876,368)
Interexchange Basket					
230 Total Interexchange	142,238,351	142,238,351	134,892,160	0	(7,346,191)

Note: Display whole numbers.

IND-1

Filing Date: 6/29/94

Filing Entity: BATR

Transmittal Number: 673

1994 Annual Compliance Filing (Filename: BATRAN94.WK3)

Page 1 of 1

Price Cap Tariff Review Plan
Indices

	PROPOSED PCI	PROPOSED API	PROPOSED SBI	UPPER SBI LIMIT	LOWER SBI LIMIT	EXISTING PCI	EXISTING API	EXISTING SBI	6/30/94 PCI	6/30/94 SBI
	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)
<u>Common Line Basket</u>										
100 Total Common Line	85.8567	N/A	N/A	N/A	N/A	93.0520	N/A	N/A	93.0520	N/A
<u>Traffic Sensitive Basket</u>										
110 Local Switching	N/A	N/A	94.1637	96.1805	87.0205	N/A	N/A	96.7846	N/A	96.7846
120 Information	N/A	N/A	96.5114	98.5518	89.1659	N/A	N/A	99.1708	N/A	99.1708
130 Database Access	N/A	N/A	93.0370	93.0659	84.2025	N/A	N/A	93.6504	N/A	93.6504
140 800 DB VertSvcs Sub-Cat	N/A	N/A	92.7912	93.0659	84.2025	N/A	N/A	93.6504	N/A	93.6504
150 Billing Name and Address	N/A	N/A	100.0000	105.0000	95.0000	N/A	N/A	100.0000	N/A	105.6595
160 Total Switched Access	84.1617	84.1552	N/A	N/A	N/A	88.9248	86.4752	N/A	88.9248	N/A
<u>Trunking Basket</u>										
200 Interconnection Charge	N/A	N/A	94.3457	94.3492	N/A	N/A	N/A	99.6916	N/A	99.6916
210 Tandem Switched Transport	N/A	N/A	96.0722	96.5339	89.9090	N/A	N/A	100.0000	N/A	100.0000
220 Density Zone 1	N/A	N/A	96.1107	99.3731	85.1769	N/A	N/A	100.0000	N/A	100.0000
230 Density Zone 2	N/A	N/A	95.9977	99.3731	85.1769	N/A	N/A	100.0000	N/A	100.0000
240 Density Zone 3	N/A	N/A	96.0125	99.3731	85.1769	N/A	N/A	100.0000	N/A	100.0000
250 VoiceGrade/WATS,Metallic,Telegraph	N/A	N/A	95.1514	95.1587	86.0959	N/A	N/A	95.7590	N/A	95.7590
260 Density Zone 1	N/A	N/A	90.9727	95.1587	81.5646	N/A	N/A	95.7590	N/A	95.7590
270 Density Zone 2	N/A	N/A	89.9913	95.1587	81.5646	N/A	N/A	95.7590	N/A	95.7590
280 Density Zone 3	N/A	N/A	89.7275	95.1587	81.5646	N/A	N/A	95.7590	N/A	95.7590
290 Audio & Video	N/A	N/A	98.4786	98.4787	89.0998	N/A	N/A	99.1000	N/A	99.1000
300 High Caps & DDS	N/A	N/A	80.2852	82.2738	74.4382	N/A	N/A	82.7928	N/A	82.7928
310 DS-1 SUB-CAT	N/A	N/A	79.7652	81.2681	73.5283	N/A	N/A	81.7808	N/A	81.7808
320 Spec Density Zone 1	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
330 Spec Density Zone 2	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
340 Spec Density Zone 3	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
350 DTT Density Zone 1	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
360 DTT Density Zone 2	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
370 DTT Density Zone 3	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
380 Comb Density Zone 1	N/A	N/A	79.8882	81.2681	69.6584	N/A	N/A	81.7808	N/A	81.7808
390 Comb Density Zone 2	N/A	N/A	81.2371	81.2681	69.6584	N/A	N/A	81.7808	N/A	81.7808
400 Comb Density Zone 3	N/A	N/A	77.5857	81.2681	69.6584	N/A	N/A	81.7808	N/A	81.7808
410 DS-3 SUB-CAT	N/A	N/A	74.9549	76.2611	68.9981	N/A	N/A	76.7422	N/A	76.7422
420 Spec Density Zone 1	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
430 Spec Density Zone 2	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
440 Spec Density Zone 3	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
450 DTT Density Zone 1	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
460 DTT Density Zone 2	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
470 DTT Density Zone 3	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
480 Comb Density Zone 1	N/A	N/A	74.8542	76.2611	65.3667	N/A	N/A	76.7422	N/A	76.7422
490 Comb Density Zone 2	N/A	N/A	76.2588	76.2611	65.3667	N/A	N/A	76.7422	N/A	76.7422
500 Comb Density Zone 3	N/A	N/A	75.7534	76.2611	65.3667	N/A	N/A	76.7422	N/A	76.7422
510 Wideband	N/A	N/A	101.3011	101.5042	91.8372	N/A	N/A	102.1446	N/A	102.1446
520 Total Trunking	85.1775	85.1770	N/A	N/A	N/A	90.0006	88.4832	N/A	90.0006	N/A
<u>Interexchange Basket</u>										
600 Total Interexchange	93.2039	92.4509	N/A	N/A	N/A	98.8142	97.4858	N/A	98.8142	N/A

RTE-1

Filing Date: 6/29/94

Filing Entity: BATR

Transmittal Number: 673

1994 Annual Compliance Filing (Filename: BATRAN94.WK3)

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Price Cap Tariff Review Plan
Common Line Basket

	BASE PERIOD DEMAND	RATES AT LAST PCI UPDATE	CURRENT RATES	PROPOSED RATES	BASE PERIOD DEMAND x RATES AT LAST PCI UPDATE	BASE PERIOD DEMAND x CURRENT RATES	BASE PERIOD DEMAND x PROPOSED RATES	INDEX RESULTS
	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
End User Common Line								
100 Multiline Business EUCL (1)	65,784,312	5.01640987	5.01640987	5.00261553	330,001,072	330,001,072	329,093,621	N/A
110 Res & Single Line Bus EUCL (1)	149,097,045	3.48574135	3.48574135	3.48504838	519,713,735	519,713,735	519,610,415	N/A
120 Lifeline EUCL (1)	317,547	3.14198849	3.14198849	3.74285596	997,729	997,729	1,188,533	N/A
130 Special Access Surcharge	305,400	25.00	25.00	25.00	7,635,000	7,635,000	7,635,000	N/A
Carrier Common Line								
140 Terminating CCL Prem.	25,803,503,753	0.00885500	0.00885500	0.00752000	228,490,026	228,490,026	194,042,348	N/A
150 Terminating CCL Non-Prem.	7,938,126	0.00398500	0.00398500	0.00338400	31,633	31,633	26,863	N/A
160 Originating CCL Prem.	28,270,182,507	0.00885500	0.00885500	0.00752000	250,332,466	250,332,466	212,591,772	N/A
170 Originating CCL Non-Prem.	1,030,804	0.00398500	0.00398500	0.00338400	4,108	4,108	3,488	N/A
180 Other Common Line	N/A	N/A	N/A	N/A	(997,729)	(997,729)	(1,188,533)	N/A
190 Total Basket	N/A	N/A	N/A	N/A	1,336,208,040	1,336,208,040	1,263,003,507	N/A

NOTE: (1) May be composite rate.
(2) Display indexes as percents to four decimal places (e.g., display 100% as 100.0000).
(3) Display revenues and demands as whole numbers.

APPENDIX A

BELL ATLANTIC

1997 ANNUAL COMPLIANCE FILING

TRANSMITTAL NO. 977

FILED: JUNE 30, 1997

EFFECTIVE: JULY 1, 1997

FIGURES AND WORKPAPERS

1993 Compliance Filing, TM 579
Carrier Common Line Maximum Rate Re-Calculation and Exogenous Cost Calculation for FCC 97-139

Line	Description	Source	Amount (A)
Step 1:			
1	Terminating CCL Premium MOU	BA TM 579	30,613,715,157
2	Terminating CCL Non-Premium MOU	BA TM 579	11,653,305
3	Chargeable Terminating CCL MOU	$L1 + (L2 * .45)$	30,618,959,144
4	Originating CCL Premium MOU	BA TM 579	20,751,411,027
5	Originating CCL Non-Premium MOU	BA TM 579	1,673,179
6	Chargeable Originating CCL MOU	$L4 + (L5 * .45)$	20,752,163,958
7	Terminating CCL Prem Capped Rates at last PCI Update	BA TM 555	0.008134
8	Originating CCL Premium Capped Rates at last PCI Update	BA TM 555	0.008134
9	Multiline Business EUCL Lines	BA TM 579	62,722,704
10	Res & Single Line Business EUCL Lines	BA TM 579	147,078,768
11	Lifeline Lines	BA TM 579	269,064
12	Special Access Surcharge Lines	BA TM 579	294,708
13	Multiline Business EUCL Rates at last PCI Update	BA TM 579	4.179378
14	Res & Single Line Business EUCL Rates at last PCI Update	BA TM 579	3.475619
15	Lifeline Rates at last PCI Update	BA TM 579	3.220832
16	Special Access Surcharge Rates at last PCI Update	BA TM 579	25.000000
17	CL Revenue at capped (t-1) rates	$(L3 * L7) + (L6 * L8) + (L9 * L13) + (L10 * L14) + (L11 * L15) + (L12 * L16)$	1,199,418,705
Step 2:			
18	CL Revenue at capped (t-1) rates	L17	1,199,418,705
19	CCL MOU for Base Year	$L1 + L2 + L4 + L5$	51,378,452,668
20	CL Rev/MOU (t-1)	$L18 / L19$	0.023345
Step 3:			
21	CL PCI (t)	Workpaper A-2, L9	92.7245
22	CL PCI (t-1)	BA TM 555	86.1589
23	$1 + \% \text{ Change CL PCI}$	$1 + ((L21 - L22) / L22)$	1.076203
24	CL Rev/MOU (t)	$L20 * L23$	0.025124
Step 4:			
25	Base Demand * Proposed SLCs	BA TM 579	833,653,493
26	CCL MOU for Base Year	L19	51,378,452,668
27	$1 + g/2$	$1 + g/2$	1.017000
28	SLC Rev/MOU (t)	$L25 / (L26 * L27)$	0.015955
29	CCL Rev/MOU (t)	$L24 - L28$	0.009169
Step 5:			
30	CCL MOU for Base Year	L26	51,378,452,668
31	CCL Rev at CCL Rev/MOU (t)	$L29 * L30$	471,089,033
32	Chargeable Originating MOU	L6	20,752,163,958
33	Originating CCL Rev (Rate = \$0.01)	$L32 * .01$	207,521,640
34	Residual CCL Revenue	$L31 - L33$	263,567,393
35	Chargeable Terminating MOU	L3	30,618,959,144
36	Hypothetical Premium Terminating Rate Cap #1 (Prem Orig = \$0.01)	$L34 / L35$	0.008608
37	Total Chargeable MOU	$L32 + L35$	51,371,123,102
38	Hypothetical Premium Terminating Rate Cap #2 (if #1 < \$0.01)	$L31 / L37$	0.009170
39	Premium Terminating Rate Cap	If $L36 < .01$, then L38; if not, then L36	0.009170
40	Actual Premium Terminating CCL Rate	BA TM 579	0.008829

ATTACHMENT 5

CCL-1
Filing Date: 9/1/94
Filing Entity: BATR
Transmittal Number: 690
OPEB SFAS 106 (BATR9014.WK3)
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Price Cap Tariff Review Plan
CALCULATION OF CARRIER COMMON LINE RATE CAP

DATA

	(A)
Step 1:	
100 Terminating CCL Premium MOU	25,803,503,753
110 Terminating CCL Non-Premium MOU	7,938,126
120 Chargeable Terminating CCL MOU	25,807,075,910
130 Originating CCL Premium MOU	28,270,182,507
140 Originating CCL Non-Premium MOU	1,030,804
150 Chargeable Originating CCL MOU	28,270,646,369
160 Terminating CCL Prem Capped Rates at last PCI Update	0.007520
170 Originating CCL Premium Capped Rates at last PCI Update	0.007520
180 Multiline Business EUCL Lines	65,784,312
190 Res & Single Line Business EUCL Lines	149,097,045
200 Lifeline EUCL Lines	317,547
210 Special Access Surcharge Lines	305,400
220 Multiline Business EUCL Rates at last PCI Update	5.002616
230 Res & Single Line Business EUCL Rates at last PCI Update	3.485048
240 Lifeline EUCL Rates at last PCI Update	0.000000
250 Special Access Surcharge Rates at last PCI Update	25.000000
255 Other CCL Revenue	0
260 CL Revenue at capped (t-1) rates	1,263,003,508
Step 2:	
270 CL Revenue at capped (t-1) rates	1,263,003,508
280 CCL MOU for Base Year	54,082,655,190
290 CL Rev/MOU (t-1)	0.023353
Step 3:	
300 CL PCI (t)	86.0419
310 CL PCI (t-1)	85.8567
320 1 + % Change CL PCI	1.002157
330 CL Rev/MOU (t)	0.023404
Step 4:	
340 Base Demand * Proposed SLCs + Other Common Line Proposed Revenue	856,339,036
350 CCL MOU for Base Year	54,082,655,190
360 1 + g/2	1.000000
370 SLC Rev/MOU (t)	0.015834
380 CCL Rev/MOU (t)	0.007570
Step 5:	
390 CCL MOU for Base Year	54,082,655,190
400 CCL Rev at CCL Rev/MOU (t)	409,388,874
410 Chargeable Originating MOU	28,270,646,369
420 Originating CCL Rev (Rate = \$0.01)	282,706,464
430 Residual CCL Revenue	126,682,411
440 Chargeable Terminating MOU	25,807,075,910
450 Hypothetical Premium Terminating Rate Cap #1 (Prem Orig = \$0.01)	0.004909
460 Total Chargeable MOU	54,077,722,279
470 Hypothetical Premium Terminating Rate Cap #2 (if #1 < \$0.01)	0.007570
480 Premium Terminating Rate Cap	0.007570
490 Proposed Premium Terminating Rate	0.007570

NOTES: (1) Display indexes on rows 300 and 310 as percents to four decimal places. (e.g., display 100% as 100.0000).
(2) Display factors in rows 320 and 360 to six decimal places (e.g., display 1 as 1.000000).
(3) Display revenues, lines, and minutes as whole numbers.

SUM-1
Filing Date: 9/1/94
Filing Entity: BATR
Transmittal Number: 690
OPEB SFAS 106 (BATR9014.WK3)
Page 1 of 1

Price Cap Tariff Review Plan
Price Out Summary

	BASE PERIOD DEMAND x RATES AT LAST PCI UPDATE	BASE PERIOD DEMAND x CURRENT RATES	BASE PERIOD DEMAND x PROPOSED RATES	BASE PER DMD x CURR RATES minus BASE PER DMD x RATES AT LAST PCI UPDATE	BASE PER DMD x PROP RATES minus BASE PER DMD x CURRENT RATES
	(A)	(B)	(C)	(D) = (B) - (A)	(E) = (C) - (B)
Common Line Basket					
100 End User Common Line	856,339,036	856,339,036	856,339,036	0	0
110 Carrier Common Line	406,664,471	406,664,471	409,368,362	0	2,703,891
120 Total Common Line	1,263,003,507	1,263,003,507	1,265,707,398	0	2,703,891
Traffic Sensitive Basket					
130 Local Switching	401,023,592	401,023,592	402,323,977	0	1,300,385
150 Information	66,855,164	66,855,164	66,855,164	0	0
160 Database Access	5,021,307	5,021,307	5,036,203	0	14,896
165 Billing Name and Address	759	759	759	0	0
170 Total Switched Access	472,900,822	472,900,822	474,216,103	0	1,315,281
Trunking Basket					
171 Interconnection Charge	348,102,279	348,102,279	349,077,659	0	975,380
175 Tandem Switched Transport	17,909,520	17,909,520	17,909,520	0	0
180 Voice Grade,WATS,Metallic & Telegraph	103,446,744	103,446,744	103,446,744	0	0
190 Audio & Video	9,085,562	9,085,562	9,085,562	0	0
200 High Caps & DDS	342,626,181	342,626,181	344,026,545	0	1,400,364
210 Wideband	64,206	64,206	64,206	0	0
220 Total Trunking	821,234,492	821,234,492	823,610,236	0	2,375,744
Interexchange Basket					
230 Total Interexchange	134,892,160	134,892,160	134,892,160	0	0

Note: Display whole numbers.

IND-1

Filing Date: 9/1/94

Filing Entity: BATR

Transmittal Number: 690

OPEB SFAS 106 (BATR9014.WK3)

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Price Cap Tariff Review Plan
Indices

	PROPOSED PCI	PROPOSED API	PROPOSED SBI	UPPER SBI LIMIT	LOWER SBI LIMIT	EXISTING PCI	EXISTING API	EXISTING SBI	6/30/94 PCI	6/30/94 SBI
	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)
<u>Common Line Basket</u>										
100 Total Common Line	86.0419	N/A	N/A	N/A	N/A	85.8567	N/A	N/A	93.0520	N/A
<u>Traffic Sensitive Basket</u>										
110 Local Switching	N/A	N/A	94.4690	96.4425	87.2575	N/A	N/A	94.1637	N/A	96.7846
120 Information	N/A	N/A	96.5114	98.8202	89.4088	N/A	N/A	96.5114	N/A	99.1708
130 Database Access	N/A	N/A	93.3130	93.3193	84.4318	N/A	N/A	93.0370	N/A	93.6504
140 800 DB VertSvcs Sub-Cat	N/A	N/A	93.0776	93.3193	84.4318	N/A	N/A	92.7912	N/A	93.6504
150 Billing Name and Address	N/A	N/A	100.0000	105.0000	95.0000	N/A	N/A	100.0000	N/A	105.3725
160 Total Switched Access	84.3909	84.3893	N/A	N/A	N/A	84.1617	84.1552	N/A	88.9248	N/A
<u>Trunking Basket</u>										
200 Interconnection Charge	N/A	N/A	94.6101	94.6217	N/A	N/A	N/A	94.3457	N/A	99.6916
210 Tandem Switched Transport	N/A	N/A	96.0722	96.8127	90.1686	N/A	N/A	96.0722	N/A	100.0000
220 Density Zone 1	N/A	N/A	96.1107	99.6601	85.4229	N/A	N/A	96.1107	N/A	100.0000
230 Density Zone 2	N/A	N/A	95.9977	99.6601	85.4229	N/A	N/A	95.9977	N/A	100.0000
240 Density Zone 3	N/A	N/A	96.0125	99.6601	85.4229	N/A	N/A	96.0125	N/A	100.0000
250 VoiceGrade/WATS,Metallic,Telegraph	N/A	N/A	95.1514	95.4335	86.3446	N/A	N/A	95.1514	N/A	95.7590
260 Density Zone 1	N/A	N/A	90.9727	95.4335	81.8001	N/A	N/A	90.9727	N/A	95.7590
270 Density Zone 2	N/A	N/A	89.9913	95.4335	81.8001	N/A	N/A	89.9913	N/A	95.7590
280 Density Zone 3	N/A	N/A	89.7275	95.4335	81.8001	N/A	N/A	89.7275	N/A	95.7590
290 Audio & Video	N/A	N/A	98.4786	98.7631	89.3571	N/A	N/A	98.4786	N/A	99.1000
300 High Caps & DDS	N/A	N/A	80.6133	82.5114	74.6531	N/A	N/A	80.2852	N/A	82.7928
310 DS-1 SUB-CAT	N/A	N/A	79.7652	81.5028	73.7406	N/A	N/A	79.7652	N/A	81.7808
320 Spec Density Zone 1	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
330 Spec Density Zone 2	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
340 Spec Density Zone 3	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
350 DTT Density Zone 1	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
360 DTT Density Zone 2	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
370 DTT Density Zone 3	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
380 Comb Density Zone 1	N/A	N/A	79.8882	81.5028	69.8596	N/A	N/A	79.8882	N/A	81.7808
390 Comb Density Zone 2	N/A	N/A	81.2371	81.5028	69.8596	N/A	N/A	81.2371	N/A	81.7808
400 Comb Density Zone 3	N/A	N/A	77.5857	81.5028	69.8596	N/A	N/A	77.5857	N/A	81.7808
410 DS-3 SUB-CAT	N/A	N/A	74.9549	76.4813	69.1974	N/A	N/A	74.9549	N/A	76.7422
420 Spec Density Zone 1	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
430 Spec Density Zone 2	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
440 Spec Density Zone 3	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
450 DTT Density Zone 1	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
460 DTT Density Zone 2	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
470 DTT Density Zone 3	N/A	N/A	0.0000	0.0000	0.0000	N/A	N/A	0.0000	N/A	0.0000
480 Comb Density Zone 1	N/A	N/A	74.8542	76.4813	65.5554	N/A	N/A	74.8542	N/A	76.7422
490 Comb Density Zone 2	N/A	N/A	76.2588	76.4813	65.5554	N/A	N/A	76.2588	N/A	76.7422
500 Comb Density Zone 3	N/A	N/A	75.7534	76.4813	65.5554	N/A	N/A	75.7534	N/A	76.7422
510 Wideband	N/A	N/A	101.3011	101.7974	92.1024	N/A	N/A	101.3011	N/A	102.1446
520 Total Trunking	85.4235	85.4234	N/A	N/A	N/A	85.1775	85.1770	N/A	90.0006	N/A
<u>Interexchange Basket</u>										
600 Total Interexchange	93.3717	92.4509	N/A	N/A	N/A	93.2039	92.4509	N/A	98.8142	N/A

RTE-1

Filing Date: 9/1/94

Filing Entity: BATR

Transmittal Number: 890

OPEB SFAS 106 (BATR9014.WK3)

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Price Cap Tariff Review Plan
Common Line Basket

	BASE PERIOD DEMAND	RATES AT LAST PCI UPDATE	CURRENT RATES	PROPOSED RATES	BASE PERIOD DEMAND x RATES AT LAST PCI UPDATE	BASE PERIOD DEMAND x CURRENT RATES	BASE PERIOD DEMAND x PROPOSED RATES	INDEX RESULTS
	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
End User Common Line								
100 Multiline Business EUCL (1)	65,784,312	5.00261553	5.00261553	5.00261553	329,093,621	329,093,621	329,093,621	N/A
110 Res & Single Line Bus EUCL (1)	149,097,045	3.48504838	3.48504838	3.48504838	519,610,415	519,610,415	519,610,415	N/A
120 Lifeline EUCL (1)	317,547	3.13056259	3.13056259	3.74285596	994,101	994,101	1,188,533	N/A
130 Special Access Surcharge	305,400	25.00	25.00	25.00	7,635,000	7,635,000	7,635,000	N/A
Carrier Common Line								
140 Terminating CCL Prem.	25,803,503,753	0.00752000	0.00752000	0.00757000	194,042,348	194,042,348	195,332,523	N/A
150 Terminating CCL Non-Prem.	7,938,126	0.00338400	0.00338400	0.00340700	26,863	26,863	27,045	N/A
160 Originating CCL Prem.	28,270,182,507	0.00752000	0.00752000	0.00757000	212,591,772	212,591,772	214,005,282	N/A
170 Originating CCL Non-Prem.	1,030,804	0.00338400	0.00338400	0.00340700	3,488	3,488	3,512	N/A
180 Other Common Line	N/A	N/A	N/A	N/A	(994,101)	(994,101)	(1,188,533)	N/A
190 Total Basket	N/A	N/A	N/A	N/A	1,263,003,507	1,263,003,507	1,265,707,398	N/A

NOTE: (1) May be composite rate.
(2) Display indexes as percents to four decimal places (e.g., display 100% as 100.0000).
(3) Display revenues and demands as whole numbers.

CCL-1

Filing Date: 6/29/94

Filing Entity: BATR

Transmittal Number: 673

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Price Cap Tariff Review Plan
CALCULATION OF CARRIER COMMON LINE RATE CAP

DATA

		(A)
Step 1:		
100	Terminating CCL Premium MOU	25,803,503,753
110	Terminating CCL Non-Premium MOU	7,938,126
120	Chargeable Terminating CCL MOU	25,807,075,910
130	Originating CCL Premium MOU	28,270,182,507
140	Originating CCL Non-Premium MOU	1,030,804
150	Chargeable Originating CCL MOU	28,270,646,369
160	Terminating CCL Prem Capped Rates at last PCI Update	0.009226
170	Originating CCL Premium Capped Rates at last PCI Update	0.009226
180	Multiline Business EUCL Lines	65,784,312
190	Res & Single Line Business EUCL Lines	149,097,045
200	Lifeline EUCL Lines	317,547
210	Special Access Surcharge Lines	305,400
220	Multiline Business EUCL Rates at last PCI Update	5.016410
230	Res & Single Line Business EUCL Rates at last PCI Update	3.485741
240	Lifeline EUCL Rates at last PCI Update	0.000000
250	Special Access Surcharge Rates at last PCI Update	25.000000
255	Other CCL Revenue	0
260	CL Revenue at capped (t-1) rates	1,356,270,873
Step 2:		
270	CL Revenue at capped (t-1) rates	1,356,270,873
280	CCL MOU for Base Year	54,082,655,190
290	CL Rev/MOU (t-1)	0.025078
Step 3:		
300	CL PCI (t)	85.8567
310	CL PCI (t-1)	93.0520
320	1 + % Change CL PCI	0.922674
330	CL Rev/MOU (t)	0.023139
Step 4:		
340	Base Demand * Proposed SLCs + Other Common Line Proposed Revenue	856,339,036
350	CCL MOU for Base Year	54,082,655,190
360	1 + g/2	1.013750
370	SLC Rev/MOU (t)	0.015619
380	CCL Rev/MOU (t)	0.007519
Step 5:		
390	CCL MOU for Base Year	54,082,655,190
400	CCL Rev at CCL Rev/MOU (t)	406,672,359
410	Chargeable Originating MOU	28,270,646,369
420	Originating CCL Rev (Rate = \$0.01)	282,706,464
430	Residual CCL Revenue	123,965,895
440	Chargeable Terminating MOU	25,807,075,910
450	Hypothetical Premium Terminating Rate Cap #1 (Prem Orig = \$0.01)	0.004804
460	Total Chargeable MOU	54,077,722,279
470	Hypothetical Premium Terminating Rate Cap #2 (if #1 < \$0.01)	0.007520
480	Premium Terminating Rate Cap	0.007520
490	Proposed Premium Terminating Rate	0.007520

NOTES: (1) Display indexes on rows 300 and 310 as percents to four decimal places. (e.g., display 100% as 100.0000).
 (2) Display factors in rows 320 and 360 to six decimal places (e.g., display 1 as 1.000000).
 (3) Display revenues, lines, and minutes as whole numbers.

SUM-1

Filing Date: 6/29/94

Filing Entity: BATR

Transmittal Number: 673

1994 Annual Compliance Filing (Filename: BATRAN94.WK3)

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Price Cap Tariff Review Plan
Price Out Summary

	BASE PERIOD DEMAND x RATES AT LAST PCI UPDATE	BASE PERIOD DEMAND x CURRENT RATES	BASE PERIOD DEMAND x PROPOSED RATES	BASE PER DMD x CURR RATES minus BASE PER DMD x RATES AT LAST PCI UPDATE	BASE PER DMD x PROP RATES minus BASE PER DMD x CURRENT RATES
	(A)	(B)	(C)	(D) = (B) - (A)	(E) = (C) - (B)
Common Line Basket					
100 End User Common Line	857,349,807	857,349,807	856,339,036	0	(1,010,771)
110 Carrier Common Line	478,858,233	478,858,233	406,664,471	0	(72,193,762)
120 Total Common Line	1,336,208,040	1,336,208,040	1,263,003,507	0	(73,204,533)
Traffic Sensitive Basket					
130 Local Switching	412,185,253	412,185,253	401,023,592	0	(11,161,661)
150 Information	68,697,378	68,697,378	66,855,164	0	(1,842,214)
160 Database Access	5,054,411	5,054,411	5,021,307	0	(33,104)
165 Billing Name and Address	759	759	759	0	0
170 Total Switched Access	485,937,801	485,937,801	472,900,822	0	(13,036,979)
Trunking Basket					
171 Interconnection Charge	368,964,573	367,826,630	348,102,279	(1,137,943)	(19,724,351)
175 Tandem Switched Transport	18,641,723	18,641,723	17,909,520	0	(732,203)
180 Voice Grade, WATS, Metallic & Telegraph	104,107,306	104,107,306	103,446,744	0	(660,562)
190 Audio & Video	9,142,893	9,142,893	9,085,562	0	(57,331)
200 High Caps & DDS	353,327,567	353,327,567	342,626,181	0	(10,701,386)
210 Wideband	64,741	64,741	64,206	0	(535)
220 Total Trunking	854,248,803	853,110,860	821,234,492	(1,137,943)	(31,876,368)
Interexchange Basket					
230 Total Interexchange	142,238,351	142,238,351	134,892,160	0	(7,346,191)

Note: Display whole numbers.